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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/580,096	05/19/2006	Christiaan Radelet	TYR-P0009	5971

27268 7590 11/06/2008  
BAKER & DANIELS LLP  
300 NORTH MERIDIAN STREET  
SUITE 2700  
INDIANAPOLIS, IN 46204

EXAMINER
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LEO, LEONARD R

ART UNIT	PAPER NUMBER
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3744

MAIL DATE	DELIVERY MODE
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11/06/2008

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/580,096	<b>Applicant(s)</b> RADELET ET AL.	
	<b>Examiner</b> Leonard R. Leo	<b>Art Unit</b> 3744	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 07 July 2008.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1 and 6-11 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1 and 6-11 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                     | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

### **DETAILED ACTION**

The amendment filed on July 7, 2008 has been entered. Claims 2-5 and 12 are cancelled, and claims 1 and 6-11 are pending.

#### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1, 6-7 and 9-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Frey, Jr. et al in view of Hendrix.

Frey, Jr. et al discloses casing 10 having a removable wall 16 including heat exchanger 28 and fluid directing means (i.e. outer wall of door 16 and heat exchanger 28), but does not disclose inlet and outlet pipes.

Hendrix (Figure 3) discloses a casing comprising an exterior mounted heat exchanger 14 having an unlabelled inlet pipe feeding means for driving the heat transfer fluid 39 and outlet pipe 49 for the purpose of providing cooling air to the heat exchanger.

Since Frey, Jr. et al and Hendrix are both from the same field of endeavor and/or analogous art, the purpose disclosed by Hendrix would have been recognized in the pertinent art of Frey, Jr. et al.

It would have been obvious at the time the invention was made to a person having ordinary skill in the art to employ in Frey, Jr. et al an inlet pipe and outlet pipe for the purpose of providing cooling air to the heat exchanger as recognized by Hendrix.

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Regarding claims 3-5, the inlet pipe and outlet pipe 49 of Hendrix are angled downwardly.

Regarding claim 7, Hendrix (column 3, lines 59-65) discloses propulsion means within the casing.

Claims 1, 6-7 and 9-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Stoller in view of Hendrix.

Stoller discloses all the claimed limitations except inlet and outlet pipes. Figure 4 of Stoller discloses casing 12 having a removable wall 10 including heat exchanger wall 34 and fluid directing means 37.

Hendrix (Figure 3) discloses a casing comprising an exterior mounted heat exchanger 14 having an unlabelled inlet pipe feeding means for driving the heat transfer fluid 39 and outlet pipe 49 for the purpose of providing cooling air to the heat exchanger.

Since Stoller and Hendrix are both from the same field of endeavor and/or analogous art, the purpose disclosed by Hendrix would have been recognized in the pertinent art of Stoller.

It would have been obvious at the time the invention was made to a person having ordinary skill in the art to employ in Stoller an inlet pipe and outlet pipe for the purpose of providing cooling air to the heat exchanger as recognized by Hendrix.

Regarding claims 3-5, the inlet pipe and outlet pipe 49 of Hendrix are angled downwardly.

Regarding claim 6, Stoller discloses means for driving the heat transfer fluid 48.

Regarding claim 7, Stoller (column 9, lines 41-55) discloses propulsion means within the casing.

Regarding claims 9-11, Figure 8 (column 9, lines 4-40) of Stoller discloses a heat transfer wall 76 having vertical upstanding ribs to improve the heat transfer. It would have been obvious to one of ordinary skill in the art to simply substitute one known element for another to obtain predictable results. *KSR Int'l Co. v. Teleflex Inc.*, 82 USPQ2d 1385, 1395 (2007).

Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over Frey, Jr. et al in view of Hendrix or Stoller in view of Hendrix as applied to claims 1, 6-7 and 9-12 above, and further in view of Modschiedler.

The combined teachings of Frey, Jr. et al and Hendrix or Stoller and Hendrix lacks propulsion means disposed within an aperture in a wall.

Modschiedler (Figure 8) discloses a casing comprising an exterior mounted heat exchanger 1 with a means for driving the heat transfer fluid 6 and a propulsion means 8 disposed within an aperture in a wall 4 for the purpose of ease of maintenance and assembly.

Since Frey, Jr. et al of Stoller and Modschiedler are both from the same field of endeavor and/or analogous art, the purpose disclosed by Modschiedler would have been recognized in the pertinent art of Frey, Jr. et al of Stoller.

It would have been obvious at the time the invention was made to a person having ordinary skill in the art to employ in Frey, Jr. et al of Stoller a propulsion means disposed within an aperture in a wall for the purpose of ease of maintenance and assembly as recognized by Modschiedler.

### ***Response to Arguments***

The objection to claim 12 under 37 CFR 1.75(c) is withdrawn in view of the claim cancellation.

The rejection of claim 5 under 35 U.S.C. 112, second paragraph, is withdrawn in view of the amendment.

Applicant's arguments have been fully considered but they are not persuasive.

There appears to be no structural difference between the inlet and outlet pipes of the instant invention and Hendrix. Hendrix (column 3, lines 37-49) discloses propulsion means 39 in an inlet pipe drawing air upwardly (similar to Figure 1) and outlet pipe 49 directing air "down and out" of the casing (similar to Figure 1).

### ***Conclusion***

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Leonard R. Leo whose telephone number is (571) 272-4916. The examiner can normally be reached on Monday thru Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Cheryl Tyler can be reached on (571) 272-4834. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/ LEONARD R. LEO /  
PRIMARY EXAMINER  
ART UNIT 3744

November 6, 2008